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attorney fees and costs by August 28, 2007. [Doc. [90](#).]

On August 28, 2007, the Petitioner filed his motion for attorney fees and costs. [Doc. [100](#).] The Respondent opposed the motion [Doc. [102](#).], the Petitioner replied [Doc. [104](#).], and the Respondent filed a sur-reply [Doc. [105](#).]. On December 5, 2007, the Petitioner filed a supplemental motion for attorney fees and costs. [Doc. [110](#).] The Respondent again opposed [Doc. [111](#).], and the Petitioner again replied to the opposition [Doc. [112](#).].

On September 14, 2007, the Court referred the Petitioner's requests for attorney fees and costs to Magistrate Judge James S. Gallas for a Report and Recommendation. [Doc. [103](#).] After conducting a thorough analysis of the Petitioner's motions and the Respondent's oppositions, on February 29, 2008, Magistrate Judge Gallas recommended that this Court grant in part and deny in part the Petitioner's motions for attorney fees and costs:

It is recommended that petitioner's motion for attorney fees and costs (ECF # 100) be granted under 42 U.S.C. §11607(b)(3) for a total award in the amount of \$117,890.73 to be paid by respondent directly to petitioner's counsel, Vorys, Sater, Seymour and Pease LLP, at their office in Columbus, Ohio. It is further recommended that petitioner's supplemental motion (ECF #110) be denied except for allowance of an amount for fee litigation consistent with the dictates of the Sixth Circuit.

[Doc. [113 at 25](#).]

Neither party objected to the Report and Recommendation.

II. Legal Analysis

The Federal Magistrates Act generally requires a district court to conduct a *de novo* review only of those portions of the Report and Recommendation to which an objection has been made. See [28 U.S.C. § 636\(b\)\(1\)](#). Parties must file any objections within ten days "after

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being served with a copy” of the Report. Id. They waive their right to appeal the Recommendation if they fail to object within the time allowed. *See, e.g., Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

In the specific context of attorney fees, the Sixth Circuit has recently held:

After being presented with the Magistrate Judge's report and recommendation, the district court must then conduct a *de novo* review of the findings and issue an order as it sees fit. The district court cannot simply “concur” in the magistrate's findings, but it must conduct its own review in order to adopt the recommendations.

McCombs v. Meijer, Inc., 395 F.3d 346, 360 (6th Cir. 2005) (citations omitted).

In the instant case, on February 29, 2008, Magistrate Judge Gallas issued a Report and Recommendation. [Doc. 113] More than ten days have passed, and neither party has objected to his Recommendation. Having conducted its own *de novo* review of the filings, the Court agrees with the conclusions of Magistrate Judge Gallas and adopts the Report and Recommendation as its own. Therefore, the Court incorporates Magistrate Judge Gallas's findings of fact and conclusions of law fully herein by reference.

III. Conclusion

For the reasons discussed above, the Court **ADOPTS** the Report and Recommendation of Magistrate Judge Gallas and **GRANTS** in part and **DENIES** in part the Petitioner's motions for attorney fees and costs.

IT IS SO ORDERED.

Dated: March 20, 2008

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE